

APPEAL NO. 041272  
FILED JULY 13, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on April 30, 2004. The hearing officer resolved the disputed issues by determining that the appellant (claimant) did not sustain a compensable mental trauma injury on or about \_\_\_\_\_, and, therefore, did not have disability. The claimant appeals these determinations and attaches evidence to his request for review, some of which was not offered into evidence at the hearing. The respondent (self-insured) urges affirmance of the hearing officer's decision.

DECISION

Affirmed.

The claimant attached numerous documents to his appeal. The majority of these documents were admitted into evidence at the hearing; however, several of the documents were not offered into evidence at the hearing and are being submitted for the first time on appeal. Documents submitted for the first time on appeal are generally not considered unless they constitute newly discovered evidence. Texas Workers' Compensation Commission Appeal No. 93111, decided March 29, 1993; Black v. Wills, 758 S.W.2d 809 (Tex. App.-Dallas 1988, no writ). Upon our review, the newly offered evidence is not so material that it would probably produce a different result. The evidence, therefore, does not meet the requirements for newly discovered evidence and will not be considered on appeal.

It has long been held in Texas that mental trauma can produce a compensable injury, even without an underlying physical injury, if it arises in the course and scope of employment and is traceable to a definite time, place, and cause. Bailey v. American General Insurance Company, 154 Tex. 430, 279 S.W.2d. 315 (1955); Olson v. Hartford Accident and Indemnity Company, 477 S.W.2d. 859 (Tex. 1972). However, Section 408.006(b) provides that a mental or emotional injury that arises principally from a legitimate personnel action is not compensable under the 1989 Act. The hearing officer noted that the order to submit to a psychiatric evaluation, which the claimant alleged aggravated his preexisting psychiatric condition, was a legitimate personnel action. The hearing officer also considered, but rejected, the claimant's theory that an injury that occurred in 2000 aggravated his psychiatric condition. Nothing in our review of the record indicates that the hearing officer's compensability determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). As the existence of a compensable injury is a prerequisite to a finding of disability (Section 401.011(16)), we similarly perceive no error in the determination that the claimant did not have disability.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**CITY CLERK  
(ADDRESS)  
(CITY), TEXAS (ZIP CODE).**

---

Chris Cowan  
Appeals Judge

CONCUR:

---

Veronica L. Ruberto  
Appeals Judge

---

Edward Vilano  
Appeals Judge